



GAIL FARBER, Director

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331

<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

July 01, 2014

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

23 July 1, 2014

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

**USE AGREEMENT BETWEEN
THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT
AND THE CITY OF SAN DIMAS
SAN DIMAS WASH PARCELS 92, 94, 96, 97, 99, 100, 104, 131, 405, AND 421
IN THE CITY OF SAN DIMAS
(SUPERVISORIAL DISTRICT 5)
(3 VOTES)**

SUBJECT

This action is to approve a use agreement for public recreational purposes between the Los Angeles County Flood Control District and the City of San Dimas along portions of San Dimas Wash in the City of San Dimas.

IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act.
2. Find that the 25-year use agreement between the Los Angeles County Flood Control District and the City of San Dimas for public recreational purposes along portions of San Dimas Wash Parcels 92, 94, 96, 97, 99, 100, 104, 131, 405, and 421 in the City of San Dimas will not interfere or be inconsistent with the primary use or purposes of such lands by the Los Angeles County Flood Control District.
3. Instruct the Chairman of the Board of Supervisors of the Los Angeles County Flood Control District to sign the use agreement and authorize delivery to the City of San Dimas.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to obtain approval from the Board, acting as the governing body of the Los Angeles County Flood Control District (LACFCD), to enable the LACFCD to enter into a use agreement between the LACFCD and the City of San Dimas for the City's use of LACFCD-owned property along portions of San Dimas Wash Parcels 92, 94, 96, 97, 99, 100, 104, 131, 405, and 421 located in the City for public recreational purposes. The City proposes to construct, operate, and maintain equestrian trails and an equestrian bridge in connection with the Foothill Boulevard Equestrian Trail and Bridge and the West Woodland Oaks Drive Equestrian Trail. Execution of this use agreement will remedy an encroachment by the City.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1). The improvements will enhance river aesthetics and public recreational opportunities in the area, thereby improving the quality of life for the residents of the County of Los Angeles.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund.

There will be no monetary consideration paid for this use agreement since the use of the LACFCD right of way is for public recreational purposes. The Los Angeles County Flood Control Act provides for the LACFCD right of way to be used for public recreational purposes as long as these purposes are compatible with the LACFCD's use of the property for flood control, water quality, and water conservation.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

San Dimas Wash Parcels 131, 405, and 421 are located on the north and south sides of San Dimas Wash, east of the intersection of Foothill Boulevard and Walnut Avenue in the City of San Dimas. San Dimas Wash Parcels 92, 94, 96, 97, 99, 100, and 104 are located immediately south of West Woodland Oaks Drive between North San Dimas Avenue and Cataract Avenue in the City of San Dimas.

The use agreement is for a term of 25 years and is authorized by Section 2, paragraph 14, of the Los Angeles County Flood Control Act. This Section authorizes the LACFCD..."To provide, by agreement with other public agencies...for the recreational use of the lands, facilities, and works of the district, which shall not interfere or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district."

The use agreement document has been reviewed and approved by County Counsel as to form.

ENVIRONMENTAL DOCUMENTATION

The Foothill Boulevard Equestrian Trail and Bridge and the West Woodland Oaks Drive Equestrian Trail Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Sections 15301 and 15305 of the State CEQA Guidelines and Classes 1(f), 1(x) (11), and 5(a) of the Environmental Reporting Procedures and Guidelines previously adopted by the Board. These exemptions provide for operation, repair, maintenance, or minor alteration of existing public or private structures or facilities involving negligible or no expansion of use beyond that previously existing, including pedestrian and equestrian trails within already established right of way and repairs and maintenance of bridge structures and granting easements or entering into agreements with other local agencies to accomplish activities that are categorically exempt.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This action allows for the public recreational use and enjoyment of the LACFCD right of way without interfering with the primary mission of the LACFCD.

CONCLUSION

Please return one adopted copy of this letter and two executed use agreements to the Department of Public Works, Survey/Mapping & Property Management Division. Retain the duplicate for your files.

Respectfully submitted,



GAIL FARBER

Director

GF:SGS:tw

Enclosures

c: Auditor-Controller (Accounting Division - Asset
Management)
Chief Executive Office (Rita Robinson)
County Counsel
Executive Office

DUPLICATE

Use Agreement No. _____
San Dimas Wash-Foothill Boulevard Equestrian Bridge
and West Woodland Oaks Drive Equestrian Trail
Parcels 92, 94, 96, 97, 99, 100, 104, 131, 405, 421
Right-of-Way Map Nos. 18-RW-12.2, 18-RW-12.3,
and 18-RW-13.1
Assessor's Identification Nos. 8661-011-901,
8665-008-904, and 8661-011-909
Thomas Guide Page/Grid: 570, B7 and C7
Supervisory District 5

USE AGREEMENT

This Use Agreement is entered into by and between the

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,
a body corporate and politic,

hereinafter referred to as DISTRICT

and the

CITY OF SAN DIMAS

hereinafter referred to as CITY

RECITALS

WHEREAS, DISTRICT owns fee and easement interests to portions of San Dimas Wash located at the northeast intersection of Foothill Boulevard and Walnut Avenue and between North San Dimas Avenue and Cataract Avenue in the CITY OF SAN DIMAS, State of California, as more particularly shown on Exhibits A and B attached hereto and made a part hereof, hereinafter referred to as PREMISES; and

WHEREAS, CITY has constructed certain improvements on PREMISES in connection with the project known as the Foothill Boulevard Equestrian Bridge and West Woodland Oaks Drive Equestrian Trail (the Project), including, but not limited to, an equestrian bridge and an equestrian trail as shown on Exhibits A and B, hereinafter referred to as IMPROVEMENTS; and

WHEREAS, CITY proposes to operate and maintain IMPROVEMENTS on PREMISES in connection with the Project.

NOW, THEREFORE, in consideration of these recitals and the faithful performance by CITY and DISTRICT of the mutual covenants herein contained for the period of time herein set forth, DISTRICT and CITY hereto mutually agree as follows:

SECTION 1. Authorized Use

- 1.1. CITY is authorized and permitted to use PREMISES for the construction, operation, maintenance, and use of IMPROVEMENTS in accordance with the terms and conditions of this Use Agreement. Any other use of PREMISES by CITY is expressly prohibited.
- 1.2. CITY'S use of PREMISES shall be subordinate to the primary uses and purposes of PREMISES for watershed management, including flood control, water conservation, and water quality purposes, by DISTRICT and others (pursuant to DISTRICT'S permission), and CITY'S use of PREMISES shall at no time interfere with the use of PREMISES or the use of DISTRICT'S adjacent property and/or improvements for such purposes.
- 1.3. DISTRICT reserves the right to use or allow others to use PREMISES for any and all lawful purposes in addition to flood control, water conservation, and watershed management, including, but not limited to, public transportation, utilities, roads, parks and recreation, and/or other related uses together with incidental rights of construction and installation of facilities, ingress and egress, operation, and maintenance. The exercise of the rights reserved herein shall not be inconsistent with CITY'S use or constitute unreasonable interference.
- 1.4. This Use Agreement is valid only to the extent of DISTRICT'S jurisdiction. Acquisition of permits required by other affected agencies and the consent of underlying fee owner(s) other than DISTRICT, if any, is the responsibility of CITY.

SECTION 2. Construction and Maintenance of IMPROVEMENTS

- 2.1. CITY understands and acknowledges that it is required to comply with the requirements set forth in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines prior to implementing IMPROVEMENTS and that CITY shall be the lead agency with respect to any and all CEQA compliance related to IMPROVEMENTS. In addition to its other indemnification obligations as specified below, City hereby agrees to indemnify, defend, and hold harmless DISTRICT and the COUNTY OF LOS ANGELES and their elected and appointed officers, employees, and agents from and against any and all claims and/or actions related to IMPROVEMENTS that may be asserted by any third party or public agency alleging violations of CEQA or the State CEQA Guidelines or the National Environmental Policy Act.

- 2.2. CITY shall bear all costs in connection with the construction of IMPROVEMENTS, including preparation of plans and specifications and all construction costs and expenses.
- 2.3. Prior to commencement of any construction activity on PREMISES by or on behalf of CITY, CITY shall submit the plans and specifications for IMPROVEMENTS to and apply for and obtain a permit from the County of Los Angeles Department of Public Works, Land Development Division, Subdivision and Permits Unit. CITY shall also obtain DISTRICT'S prior written approval should CITY propose to make any changes to the approved plans and specifications.
- 2.4. Upon completion of the construction of IMPROVEMENTS, CITY shall provide DISTRICT with approved as-built plans.
- 2.5. CITY shall keep, inspect, and maintain PREMISES and IMPROVEMENTS in a safe, clean, and orderly condition at all times during the term of this Use Agreement and shall not permit trash and debris, including, but not limited to, rubbish, tin cans, bottles, and garbage, to accumulate at any time, nor shall CITY commit, suffer, or permit any waste on PREMISES or IMPROVEMENTS or permit any acts to be done in violation of any laws or ordinances thereon.
- 2.6. CITY shall remove graffiti from PREMISES and IMPROVEMENTS and any walls, fences, and signs that are located within PREMISES anytime graffiti is discovered by CITY or anytime CITY is notified by DISTRICT. Graffiti must be removed within the following guidelines:
- 2.6.1 Remove vulgar graffiti (i.e., profane, obscene, or racist) within 24 hours, Monday through Friday.
- 2.6.2 Remove other graffiti within 72 hours, Monday through Friday.
- 2.7. CITY shall replace or repair any property of DISTRICT that becomes damaged by CITY or any person entering PREMISES at CITY'S invitation or with the consent of CITY, either expressed or implied, to the satisfaction of DISTRICT, or if CITY fails to make the necessary replacement or repair within thirty (30) days after DISTRICT provides a written notice to CITY to do so, as provided in Section 6.7, CITY shall compensate DISTRICT for damage within thirty (30) days of CITY'S receipt of an invoice from DISTRICT.
- 2.8. CITY shall close all gates and take all actions necessary to render PREMISES inaccessible to public access in the event CITY abandons its operation and maintenance of IMPROVEMENTS or when the weather forecast for the next 24-hour period is for one (1) inch of rain or more or when notified by DISTRICT.

SECTION 3. Term

- 3.1. The term of this Use Agreement shall be for twenty-five (25) years (Initial Term), subject to DISTRICT'S right to terminate CITY'S use as provided for in Section 4 below.
- 3.2. This Use Agreement shall expire at the end of the Initial Term, provided, however, that DISTRICT may extend the term of this Use Agreement beyond the Initial Term, subject to such terms and conditions as it deems appropriate, upon receipt of a written request from CITY no earlier than twelve (12) months or later than six (6) months prior to the end of the Initial Term.

SECTION 4. Termination of Use

- 4.1. DISTRICT shall have the right to cancel this Use Agreement and terminate CITY'S use of PREMISES by giving CITY at least a ninety (90) days' prior written notice under the following conditions:
 - 4.1.1. DISTRICT proposes to implement a project on PREMISES for watershed management purposes, including flood control, water conservation, and water quality ; and
 - 4.1.2. DISTRICT determines, in good faith, that IMPROVEMENTS and/or CITY'S use of PREMISES, or any of them, would be substantially incompatible with the proposed project; and
 - 4.1.3. DISTRICT has notified CITY of the basis for DISTRICT'S determination that a substantial incompatibility exists and has provided CITY with a reasonable opportunity to propose modifications to IMPROVEMENTS or CITY'S use of PREMISES that will eliminate the incompatibility.
- 4.2. DISTRICT shall have the right to cancel this Use Agreement and terminate CITY'S use of PREMISES by giving CITY at least a sixty (60) days' prior written notice if CITY breaches any term or condition of this Use Agreement.
- 4.3. DISTRICT shall have the right to cancel this Use Agreement and terminate CITY'S use of PREMISES if construction of IMPROVEMENTS has not been completed within five (5) years from the date this Use Agreement is fully executed.
- 4.4. DISTRICT shall have the right to immediately cancel and terminate CITY'S use of PREMISES, pursuant to this Use Agreement, or, in DISTRICT'S sole discretion, to temporarily suspend such use in the event DISTRICT determines, in good faith, that it is necessary for DISTRICT to enter and take exclusive possession of PREMISES in order to respond to an emergency as defined in California Public Contract Code Section 1102. In

the event of such emergency, CITY shall bear any expenses associated with the cessation of such use and shall have no rights or claims therefore against DISTRICT.

- 4.5. CITY shall have the right to cancel and terminate its use of PREMISES, pursuant to this Use Agreement, for any reason by giving DISTRICT at least a sixty (60) days' prior written notice.

SECTION 5. Removal of IMPROVEMENTS and Restoration of PREMISES

- 5.1. Upon the expiration or sooner termination of this Use Agreement, CITY shall, at its own expense, remove IMPROVEMENTS and restore PREMISES to a condition similar to or better than that which existed on the effective date of this Use Agreement, reasonable wear and tear excepted.
- 5.2. Prior to commencing the removal of IMPROVEMENTS, or any of them, CITY shall apply for and obtain a permit therefore from the County of Los Angeles Department of Public Works, Land Development Division, Subdivision and Permits Unit.
- 5.3. If CITY fails to remove IMPROVEMENTS and restore PREMISES within ninety (90) days of the expiration of this Use Agreement or sooner termination of CITY'S use of PREMISES, pursuant to this Use Agreement, DISTRICT may remove IMPROVEMENTS.
- 5.4. If DISTRICT removes IMPROVEMENTS pursuant to Subsection 5.3, DISTRICT shall submit a billing invoice to CITY indicating the costs and expenses incurred by DISTRICT in connection with the removal of IMPROVEMENTS and CITY shall reimburse DISTRICT all such costs and expenses for removing said IMPROVEMENTS within thirty (30) days of the billing invoice.

SECTION 6. Miscellaneous Terms and Conditions

6.1. Indemnification

- 6.1.1. In accordance with California Government Code Section 895.4, DISTRICT and CITY agree to apportion responsibility and indemnification, notwithstanding any other provision of law, as follows:

- 6.1.1.1. CITY shall indemnify, defend, and hold DISTRICT and the County of Los Angeles and their respective officers, employees, and agents harmless from and against any claims, demands, liability, damages, costs, and expenses, including, but not limited to, those involving bodily injury, death, or personal injury of any person or property damage of any nature whatsoever arising from or related

to the construction, reconstruction, maintenance, operation, or removal of IMPROVEMENTS or CITY'S use of PREMISES.

6.1.1.2. DISTRICT shall indemnify, defend, and hold CITY and its officers, employees, and agents harmless from and against any claims, demands, liability, damages, costs, and expenses, including, but not limited to, those involving bodily injury, death, or personal injury of any person or property damage of any nature whatsoever arising from or related to the construction, reconstruction, maintenance, operation, or removal of any improvements constructed or maintained by DISTRICT on, above, or under PREMISES or arising from any and all uses of PREMISES by DISTRICT.

6.1.2. CITY releases DISTRICT and waives all rights to damages for any loss, costs, or expenses CITY may sustain as a result of any damage to or destruction of IMPROVEMENTS or to PREMISES attributable to DISTRICT'S watershed management activities, including any flood control, water conservation, or water quality activities on or adjacent to PREMISES or attributable to any flooding caused by inadequacy or failure of DISTRICT'S facilities, except to the extent caused by the DISTRICT'S negligence or willful misconduct.

6.1.3. Each party to this Use Agreement shall include the other within the protection of any indemnification clause contained in any ancillary contract relating to PREMISES.

6.2. Without limiting CITY'S indemnification of DISTRICT, CITY shall procure and maintain, in full force and effect during the term of this Use Agreement, insurance policies providing for the following insurance coverage:

- Comprehensive general liability and property damage with a combined single-limit liability coverage not less than Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence.
- Worker's Compensation coverage in such amount as will fully comply with the laws of the State of California and shall indemnify, insure, and provide legal defense for both DISTRICT and CITY against any loss, claim, or damage arising from any injuries or occupational diseases occurring to any worker employed by or any person retained by CITY in the course of carrying out the work or services contemplated in this Use Agreement.

- Automobile Liability Insurance: CITY shall procure such policy with coverage not less than One Million and 00/100 Dollars (\$1,000,000.00) per accident.
 - The County of Los Angeles, DISTRICT, and their governing boards, officers, agents, contractors, and employees shall be named as additional insured on all policies of liability insurance. CITY shall furnish to DISTRICT a Policy of Insurance evidencing CITY'S insurance coverage no later than ten (10) working days after execution of the Use Agreement, but before CITY takes possession of Premises. Upon renewal of said policy, CITY shall furnish to DISTRICT a Certificate evidencing CITY'S continued insurance coverage as required herein.
 - DISTRICT may accept, should CITY elect to provide, a Certificate of Self-Insurance. The limits of such self-insurance coverage shall meet or exceed those stated herein.
- 6.3. CITY and DISTRICT shall have no financial obligation to each other under this Use Agreement, except as herein expressly provided.
- 6.4. The parties expressly recognize and intend that in consideration of this Use Agreement, which is solely for CITY'S benefit, DISTRICT is not to incur any liability whatsoever for any injury, death, or property damage arising from any use of PREMISES or IMPROVEMENTS by persons who gain entry through openings or areas provided for CITY'S use.
- 6.5. DISTRICT, its board, and any authorized officer, engineer, employee, or contractor, through its agents or representatives, shall have full right and authority to enter in and upon PREMISES at any and all reasonable times during the term of this Use Agreement, all without interference or hindrance by CITY or its agents, officers, contractors, employees, or representatives for the purpose of inspecting the same and to serve or post any notice required or permitted by law for protection of any right or interest of DISTRICT.
- 6.6. Except as to fuels, lubricants, and products associated with motorized vehicles, equipment, gardening, or maintenance-related substances, or all of the above, CITY shall not cause or allow the presence, use, storage, or disposal of any hazardous substances on or about PREMISES without the prior written consent of DISTRICT, of which the consent shall not be unreasonably denied. In the event of spillage, leakage, or escape of any hazardous substance onto PREMISES, CITY shall immediately notify DISTRICT by calling 1 (800) 675-4357. If the spillage, leakage, or escape was caused by CITY, CITY shall promptly remove any such substance from PREMISES to DISTRICT'S satisfaction. In addition to removing any of CITY'S hazardous substances, CITY shall be liable and reimburse DISTRICT for any and all costs and expenses that DISTRICT may incur or

6.7. Any notice to be given or document to be delivered by DISTRICT or CITY to the other party may be delivered in person to either party or by private courier or may be deposited in the U.S. mail, duly registered or certified with return receipt requested and addressed to the party for which intended, as follows:

To CITY: Mr. Krishna Patel
Director of Public Works
City of San Dimas
245 East Bonita Avenue
San Dimas, CA 91773
Telephone: (909) 394-6245

[illegible]

IN WITNESS WHEREOF, the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, by order of its Board of Supervisors, has caused this Use Agreement to be subscribed by the Chairman of the Board of Supervisors and the seal of DISTRICT to be affixed hereto and attested by its Executive Officer of the Board of Supervisors, and the CITY OF SAN DIMAS has caused this Use Agreement to be executed by its duly authorized officer as of the date indicated below.

(SEAL)

ATTEST:

SACHI A. HAMAI
Executive Officer of the
Board of Supervisors of the
County of Los Angeles

By 
Deputy



DISTRICT:

LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT,
a body corporate and politic

By 
Chairman, Board of Supervisors

Date JUL 01 2014


APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

By 
Deputy

ADOPTED
BOARD OF SUPERVISORS

23 JUL 01 2014


SACHI A. HAMAI
EXECUTIVE OFFICER
APPROVED AS TO FORM:

J. KENNETH BROWN
City Attorney

By 
Deputy

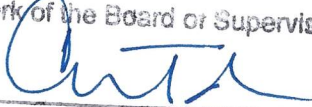
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P:\MPPUB\ADMIN\TRACY\MP6\2014\MICHAEL R\ DIMAS WASH-FOOTHILL EQUESTRIAN BRIDGE USE AGREEMENT VER4.DOC



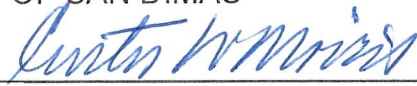
I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By 
Deputy

CITY:

CITY OF SAN DIMAS

By 

Date 4-22-14

ATTEST:

DEBRA BLACK
City Clerk

By 
Deputy

78230

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

)
) ss.
)

On January 6, 1987, the Board of Supervisors for the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board so acts adopted a resolution pursuant to Section 25103 of the Government Code that authorized the use of facsimile signatures of the Chairman of the Board on all papers, documents, or instruments requiring the Chairman's signature.

The undersigned hereby certifies that on this 1st day of July, 2014, the facsimile signature of DON KNABE, Chairman of the Board of Supervisors of the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, was affixed hereto as the official execution of this document. The undersigned further certifies that on this date a copy of the document was delivered to the Chairman of the Board of Supervisors of the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT.

In witness whereof, I have also hereunto set my hand and affixed my official seal the day and year above written.



(LACFCD-SEAL)

APPROVED AS TO FORM

JOHN F. KRATTLI.
County Counsel

By [Signature]
Deputy

SACHI A. HAMAI, Executive Officer
of the Board of Supervisors
of the County of Los Angeles

By: [Signature]
Deputy

ACKNOWLEDGMENT FORM

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(insert name of the officer)

personally appeared _____

(insert name(s) and title(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

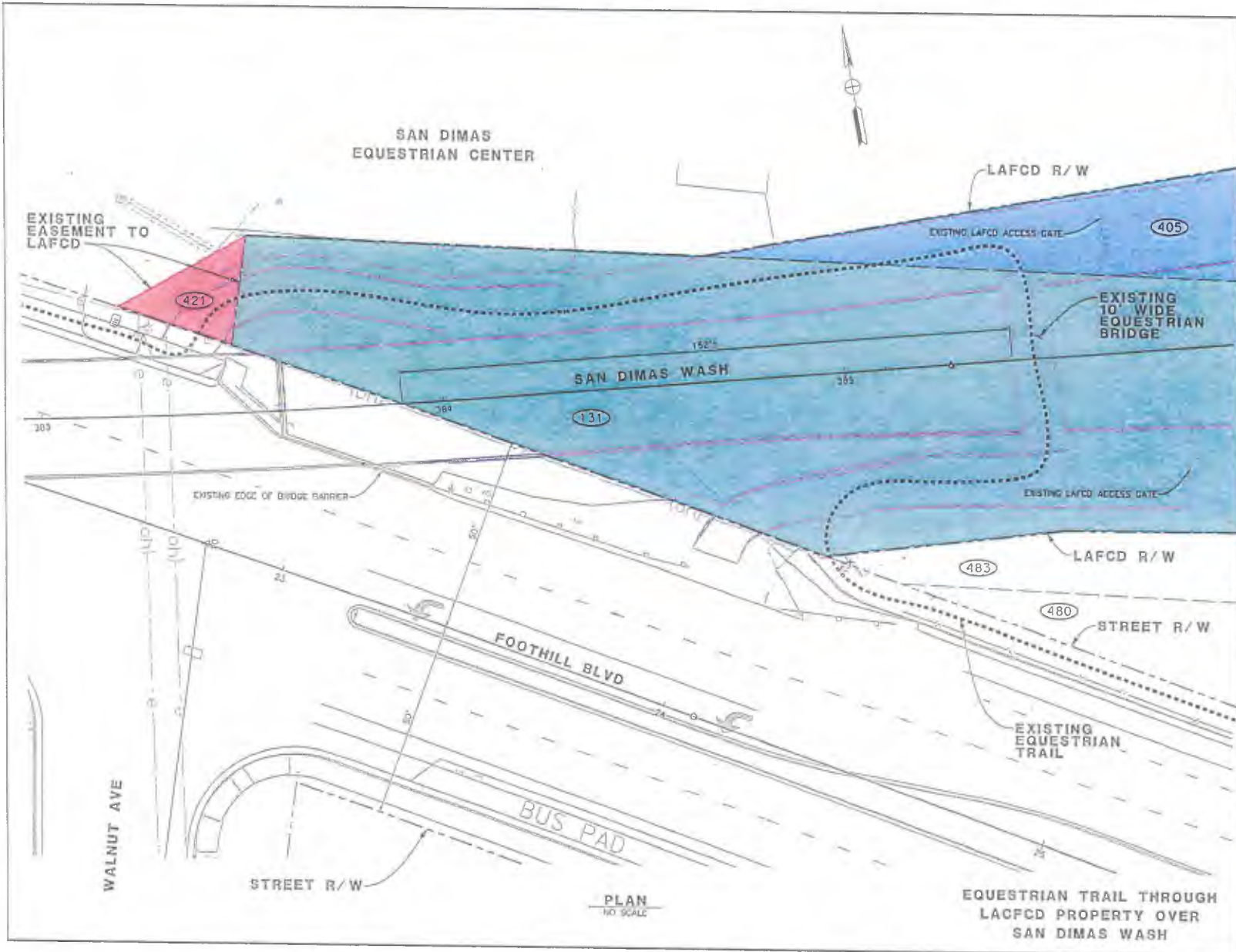


EXHIBIT B

